



**COUNTY OF LEHIGH**  
Office of the Commissioners

**Bob Elbich**  
Commissioner

August 27, 2021

Pennsylvania Department of Health  
Attn: Lori Gutierrez, Deputy Director  
625 Forester St, Room 814  
Harrisburg, PA 17120

**RE: Rulemakings 10-221 (Long-Term Care Facilities, Proposed Rulemaking 1)**

Dear Deputy Director Gutierrez:

I am writing regarding my concerns on Rulemaking 10-221 (Long-Term Care Facilities, Proposed Rulemaking 1). County nursing homes and other affiliated long-term care facilities care for one of the most vulnerable populations. As you are aware Cedarbrook Senior Care is located in Lehigh County and has two highly rated facilities.

Proposed Rulemaking 1 looks at nursing services within long-term care facilities, specifically calling for an increase in the minimum number of direct resident care hours from 2.7 to 4.1. I offer the following concerns and observations regarding this proposed rule:

- Beyond question, no one would reject the desire for increased staffing levels for care for our Cedarbrook residents. Cedarbrook often runs at an "Above Average" staffing level per CMS Nursing Home compare website. Increased staffing can lead to higher quality of care. However, the devil is in the details.
- Industry labor shortages make it currently impossible to meet the proposed 4.1 hours per patient day both at Cedarbrook and for the industry today. There is an acute shortage of available nursing home staff (CNAs, LPNs, RNs) in PA. This was true prior to the pandemic, and the problem has become acutely more severe during the pandemic, which has chased so many out of the industry and serves as a psychological barrier for people to enter or re-enter the industry. Some buildings struggle to even hit the current regulation of 2.7 hours per patient day in the

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pandemic. In fact, I am aware of nursing homes currently being cited for being unable to hit the 2.7 hours per patient day.

- On a normalized pre-pandemic basis, we would have to increase the Cedarbrook hppd by 0.70 to accommodate a consistent 4.1 hppd.
- There is no funding currently available to add 0.70 hppd to our budget, and it is unrealistic to believe the industry can absorb that cost. The approximate cost of adding this level of labor is upwards of \$4M annually for Lehigh County. This would amount to an unfunded mandate unless the state is prepared to provide the necessary financial assistance.
- To make a 4.1 hppd possible requires a multi-year collaborative approach between the nursing home industry and state government:
  - Regional workforce training programs / CNA programs need to be initiated in the state to create a more plentiful supply of CNAs. CNAs form the backbone of the nursing home to perform the activities of daily living for the residents. The CNAs also have the most interaction with the residents and can signal changes of condition before the nurse even sees the resident.
  - The state needs a plan to address the increasing acute shortage of nurses – more are retiring than entering nursing careers. Geriatric nursing programs need to be created and highly emphasized by the state and various university systems. It is often said that nursing programs glamorize hospital careers and dismiss nursing home careers.
  - Once this backbone of CNA and nursing programs is solidified and producing a steady supply of viable labor, then the state can enter a scheduled several year approach of getting to 4.1 hppd for the industry.
  - The funding must be there. The state Medicaid program budget needs to be increased to sufficiently cover this level of staffing, and that funding needs be directly passed through to the nursing home providers without being altered by the 3 community health choices insurances.
  - The ruling has not been well thought out, specifically, the proposed direct care hours also would apply to all shifts, which means that facilities will have to have the same number of staff to care for residents during the night when residents

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are sleeping as during the daytime hours, and fewer hours to complete other duties that are essential to ensuring overall resident health and safety within long-term care facilities. This makes no sense.

While the effort to increase patient hours is well-intended, given the current environment and the impact on facility operations, the outcomes for residents could actually be negative and hit county nursing facilities disproportionately hard. Lehigh County is committed to those we serve and urge you to consider the potential negative outcomes of this proposed rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Elbich", is written over a light blue horizontal line.

Bob Elbich  
Lehigh County Commissioner

CC:

Rep. Kathy Rapp  
Rep. Dan Frankel  
Rep. Gary Day  
Sen. Michele Brooks  
Sen. Arthur Haywood

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